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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/797,955	03/11/2004	Alec C. Wong	PCCR122034	4838
26389	7590	10/29/2004	EXAMINER	
CHRISTENSEN, O'CONNOR, JOHNSON, KINDNESS, PLLC 1420 FIFTH AVENUE SUITE 2800 SEATTLE, WA 98101-2347			ENGLE, PATRICIA LYNN	
			ART UNIT	PAPER NUMBER
			3612	

DATE MAILED: 10/29/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/797,955

Applicant(s)

WONG ET AL.

Examiner

Patricia L Engle

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 01 October 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-3, 7-12, 16, 17, 20 and 22-28 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 12 is/are allowed.
- 6) ☒ Claim(s) 1-3, 7-11, 16, 17, 20 and 22-28 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 11 March 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### *Specification*

1. The abstract of the disclosure is objected to because it should be submitted on a separate sheet. Correction is required. See MPEP § 608.01(b).

### *Claim Rejections - 35 USC § 103*

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

4. Claims 1-3, 8-11, 17, 20, 22, 23 and 25-28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lund et al. (US Patent 5,112,095) in view of Matsumoto et al. (US Patent 5,165,751).

Matsumoto et al. disclose an adjustable vehicular airflow control device comprising a deflector panel (60) and an actuator (Fig. 7) for linearly moving (Fig. 1) the deflector panel and

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rotating the deflector panel (Fig. 11)(claim 1), wherein the actuator assembly is adapted to vertically move (Fig. 1) the deflector panel (60) independently from rotating the deflector panel (Fig. 11). Regarding claim 2, Matsumoto et al. disclose that the panel (60) is moved linearly in the fore and aft direction (Fig. 1) independently from rotating the panel (60). Regarding claim 11, Matsumoto et al. disclose that the deflector panel (60) is displaced in the fore and aft directions (Fig. 1) and in a substantially vertical direction (Fig. 11) independently. Regarding claim 26, Matsumoto et al. disclose that the deflector panel (60) is adjustable in a vertical direction (Fig. 1) and independently in inclination (Fig. 11). Regarding claim 27, Matsumoto et al. disclose that the panel (60) is adjustable in the fore and aft direction (Fig. 1) and independently in inclination (Fig. 11). Regarding claim 28, Matsumoto et al. disclose that the panel (50) is adjustable in the vertical direction (Fig. 1) and independently in inclination (Fig. 11). Regarding claims 8 and 9, Matsumoto et al. disclose a speed sensor which controls the movement of the deflector (column 5, lines 45-48). Regarding claim 10, Matsumoto et al. disclose that the deflector is moved when the vehicle has been reduced in speed (column 5, lines 45-48). Therefore, the deflector must be operable when the vehicle is in motion.

Matsumoto et al. do not disclose that the deflector is mounted on a front section of the vehicle.

Lund et al. disclose an adjustable vehicular airflow control device comprising: a deflector panel adapted to be disposed on a front section of a vehicle to selectively control airflow about the front section of the vehicle and an actuator assembly coupled to the deflector panel for rotating the deflector panel (claim 1).

Lund et al. and Matsumoto et al. are analogous art because they are from the same field of endeavor, i.e., adjustable vehicular airflow control devices.

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At the time of the invention, it would have been obvious to one of ordinary skill in the art to use an adjustable vehicular air flow control device on the front portion of the vehicle.

The motivation would have been to have an airflow deflector that deflects airflow away from the windshield (abstract) and is adjustable while the vehicle is in motion.

Therefore, it would have been obvious to combine Lund et al. with Matsumoto et al. to obtain the invention as specified in claim 1-3, 8-11 and 26-28.

Regarding claims 17, 20, 22, 23 and 25, Matsumoto et al. as modified disclose the deflector panel with a speed sensor which controls the movement of the deflector. The method of controlling the position would have been inherent to the deflector panel with the speed sensor.

5. Claims 7 and 24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Matsumoto et al. in view of Lund et al. as applied to claims 1-6 and 8-23 above, and further in view of Takagi et al. (US Patent 4,810,022).

Matsumoto et al. as modified disclose an airflow control device of claims 1-6 and 8-23 .

Matsumoto et al. as modified do not disclose that the deflector is mounted to be flush with the hood.

Takagi et al. disclose an airflow control device with a deflector in which the deflector is mounted to be flush with the panel on which is mounted when not in use.

Matsumoto et al. and Takagi et al. are analogous art because they are from the same field of endeavor, i.e., airflow control devices with deflectors.

At the time of the invention, it would have been obvious to one of ordinary skill in the art to mount the deflector flush with the panel on which it was mounted.

The motivation would have been to have a continuous flat surface when the deflector is not in use.

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Therefore, it would have been obvious to combine Takagi et al. with Matsumoto et al. to obtain the invention as specified in claims 7 and 24.

*Allowable Subject Matter*

6. Claim 12 is allowed.

7. The following is a statement of reasons for the indication of allowable subject matter: the primary reason for the allowance of claim 12 is the inclusion that the deflector panel be able to move independently in the vertical, horizontal and rotational manner independently of one another.

*Response to Arguments*

8. Applicant's arguments filed October 1, 2004 have been fully considered but they are not persuasive. The Examiner has changed the rejection such that the deflector panel is the secondary panel (60) of Matsumoto et al. The secondary panel is moved in the fore and aft direction and the vertical direction with the main panel as shown in Fig. 1. The secondary panel is then independently moved in rotation or inclination (and the vertical direction is altered). The Examiner has indicated that claim 12 is allowable but not claim 2. Claim 12 requires that the panel have three degrees of freedom (move independently in a vertical, horizontal and rotational manner) whereas in claim 2, the vertical and fore and aft movement are not required to be independent.

*Conclusion*

9. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Patricia L Engle whose telephone number is (703) 306-5777. The examiner can normally be reached on Monday - Friday from 8:00 to 4:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, D. Glenn Dayoan can be reached on (703) 308-3102. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Patricia L Engle  
Examiner  
Art Unit 3612

ple  
October 18, 2004



10/28/04

D. GLENN DAYOAN  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 3600